

Regular Session, 2009

ACT No. 367

HOUSE BILL NO. 347

BY REPRESENTATIVE DOWNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(10) and to enact R.S. 22:42.1, relative to the
3 Department of Insurance; to provide with respect to the confidentiality of certain
4 health information; to provide for the definition of protected health information; to
5 provide for limited disclosures by the department; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:42.1 is hereby enacted to read as follows:

8 §42.1. Confidentiality of health information; exceptions

9 A.(1) All protected health information in the custody of the Department of
10 Insurance shall be confidential and privileged, shall not be subject to disclosure
11 under Title 44 of the Louisiana Revised Statutes of 1950, and shall not be subject to
12 subpoena. Confidentiality and privilege shall be strictly maintained by the
13 commissioner of insurance and all employees of the department, except as provided
14 in Subsection B of this Section, and the protected health information shall be used
15 exclusively for the purpose of discharging the duties and responsibilities of the
16 department under this Title.

17 (2) "Protected health information" as used in this Section means either of the
18 following:

19 (a) Any health or medical information, documents, or records designated as
20 confidential by state or federal law.

21 (b) Any information, whether oral, written, electronic, visual, or in any other
22 form, including demographic information collected from an individual, that is in the
23 department's possession which does both of the following:

1 (i) Relates to the past, present, or future physical or mental health or
2 condition of an individual, the provision of health care to an individual, or the past,
3 present, or future payment for the provision of health care to an individual.

4 (ii) Reveals the identity of the individual whose health care is the subject of
5 the information, or there is a reasonable basis to believe the information could be
6 utilized, either alone or with other information that is or should reasonably be known
7 to be available to predictable recipients of the information to reveal the identity of
8 that individual.

9 B.(1) Nothing in this Section shall prohibit the communication of facts or
10 documents that are part of an individual's protected health information to the
11 individual or his representative. When authorized in writing by the individual, such
12 facts and documents may also be released to the party designated in the written
13 authorization.

14 (2) Nothing in this Section shall prohibit the communication of facts,
15 documents, or other information that is part of an individual's protected health
16 information if requested by: a federal or state prosecuting attorney; the office of the
17 state police, public safety services, Department of Public Safety and Corrections, in
18 the conduct of an insurance fraud investigation, office of the state inspector general;
19 the legislative auditor; or the attorney general of this state. The department shall also
20 share information with any state or federal agency for the purpose of investigating
21 or determining tax fraud or the offset of any governmental benefit or with any other
22 government entity authorized by law to conduct any audit, investigation, or similar
23 activity in connection with the administration of any state or federally funded
24 program.

25 (3) Nothing in this Section shall prohibit the communication of facts,
26 documents, or other information which are part of an individual's protected health
27 information pursuant to an order of a court of competent jurisdiction issued after a
28 contradictory hearing based upon a finding that the records should be released in the
29 interest of justice.

(4) Nothing in this Section shall prevent the use of protected health information for the compilation of statistical data in which the identity of the individual is not disclosed.

Section 2. R.S. 44:4.1(B)(10) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

* * *

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

* * *

(10) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 574, 618, 706, 732, 752, 1203,
1460, 1466, 1644, 1656, 1723, 1929, 1983, 2036, 2303

* * *

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____